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NUVELO, INC  
201 INDUSTRIAL ROAD  
SUITE 310  
SAN CARLOS CA 94070

In re Application of	:	
RUPP et al.	:	
Application No.: 10/520,299	:	
PCT No.: PCT/US03/21703	:	
Int. Filing Date: 09 July 2003	:	DECISION
Priority Date: 12 July 2002	:	
Attorney Docket No.: HYS-B2CIP/US	:	
For: METHODS AND MATERIALS RELATING TO	:	
NOVEL POLYPEPTIDES AND POLYNUCLEOTIDES	:	

This is a decision on applicants' renewed petition under 37 CFR 1.47(a) and applicants' petition under 37 CFR 1.182, both filed 01 November 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 09 July 2003, applicants filed international application PCT/US03/21703, which designated the United States and claims a priority date of 12 July 2002. A copy of the international application was communicated from the International Bureau to the USPTO on 22 January 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 12 January 2005.

On 04 January 2005, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, and the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage.

On 18 August 2005, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 October 2005, applicants filed a petition under 37 CFR 1.47(a) which was accompanied by, *inter alia*, a copy of a letter from Renee Polizotto to nonsigning inventor Tom Wehrman, a copy of proof of delivery of a package mailed via Federal Express, copies of e-mails from Renee Polizotto to Tom Wehrman, and copies of e-mail receipts for these e-mails.

On 01 August 2006, a decision was mailed dismissing applicants' petition under 37 CFR 1.47(a) for failure to provide the most recent home address of the nonsigning inventor and for failing to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Specifically, the decision indicated that there is a difference in names in the last-named inventor between the published international application (Y. Tom Tang) and the declaration of inventors (Yuanhua T. Tang). The decision also indicated that a petition under 37 CFR 1.182 would be required to resolve the matter.

On 01 November 2006, applicants filed a renewed petition under 37 CFR 1.47(a) and a petition under 37 CFR 1.182. The petition under 37 CFR 1.182 was accompanied by the petition fee and a statement from Yuanhua Tang.

### **DISCUSSION**

#### **Petition Under 37 CFR 1.182**

The petition fee has been paid. The statement of Yuanhua Tang is accepted. The declaration of inventors filed 14 October 2005 is in compliance with 37 CFR 1.497(a)-(b).

#### **Petition Under 37 CFR 1.47(a)**

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h); (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort; (3) a statement of the last known address of the missing inventor; and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

As noted in the decision mailed 01 August 2006, items (1) and (2) have been met.

Items (3) and (4) have now been satisfied as well.

### **CONCLUSION**


For the above reasons, applicants' petition under 37 CFR 1.182 is **GRANTED**.

For the above reasons, applicants' renewed petition under 37 CFR 1.47(a) is **GRANTED**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application, including the accordation of a 35 U.S.C. §§371(c)(1), (c)(2), and (c)(4) date of **14 October 2005**.



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